TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1922.

No. 242.

SAMUEL LUMIERE, APPELLANT,

vs.

MAE EDNA WILDER, INC.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF NEW YORK.

FILED JANUARY 4, 1921.

(28,634)

(28,634)

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1922.

No. 242.

SAMUEL LUMIERE, APPELLANT,

vs.

MAE EDNA WILDER, INC.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF NEW YORK.

INDEX.

	Original.	Print.
Record from the U. S. district court for the southern district of New York	1	1
Subpœna and service	1	1
Bill of complaint	3	2
Notations as to Exhibits A and B—(Not set out)	8	4
Notice of motion to quash service	11	5
Motion to quash service	12	5
Affidavit of Thomas F. Adkin	14	6
Affidavit of service	18	7
Order quashing service	19	8
Notice of settlement	20	9
Certificate in equity	21	10
Petition for appeal	25	11
Assignment of errors	27	12
Citation	29	13
Stipulation and order as to transcript	30	14
Clerk's certificate	33	16

JUDD & DETWEILER (INC.), PRINTERS, WASHINGTON, D. C., NOVEMBER 16, 1922.

1 *Equity Subpœna.*

The President of the United States of America to May Edna Wilder, Inc., Greeting:

You are hereby commanded to appear before the Judges of the District Court of the United States of America for the Southern District of New York, in the Second Circuit, to answer a bill of complaint exhibited against you in the said Court in a suit in Equity, by Samuel Lumiere and to further do and receive what the said Court shall have considered in this behalf; and this you are not to omit under the penalty on you of two hundred and fifty dollars ($250).

Witness, Honorable Learned Hand, Judge of the District Court of the United States for the Southern District of New York, at the City of New York, on the 9th day of Sept. in the year one thousand nine hundred and twenty-one and of the Independence of the United States of America the one hundred and forty-sixth.

ALEX. GILCHRIST, JR.,
Clerk.

ALMY, VAN GORDON & EVANS,
Plaintiff's Sol'rs.

The defendant is required to file its answer or other defense in the above cause in the Clerk's office of this Court, on or before the twentieth day after service hereof excluding the day of said service; otherwise the bill aforesaid may be taken pro confesso.

[Seal of U. S. D. C., So. D. N. Y.]

ALEX. GILCHRIST, JR.,
Clerk.

Filed Sep. 16, 1921. U. S. District Court, S. D. of N. Y.

2 (Attached to Subpœna.)

I hereby certify, That on the 9th day of September 1921, at the City of New York, in my district, I served the within Subpœna in Equity upon the within named Defendant May Edna Wilder, Inc., by exhibiting to Thomas Adkins as Pres. of said Inc. at Biltmore Hotel, New York City, N. Y., the within original, and at the same time leaving with him a copy thereof. And at the same time and place left with him a copy of Bill of Complaint in this suit.

(Signed) THOMAS D. McCARTHY,
United States Marshal, Southern District of New York.

Dated, September 12th, 1921.
J. M. K.

3 United States District Court for the Southern District of New York.

E 22—149.

SAMUEL LUMIERE, Complainant,

against

MAY EDNA WILDER (INC.), Defendant.

Bill in Eqwity.

To the Honorable Judges of the United States District Court for the Southern District of New York:

Complainant, Samuel Lumiere, is an individual engaged in the profession of photography at #574 Fifth Avenue, State, County and City of New York, a citizen of the said State and City of New York and the United States, brings this, his bill of complaint against the defendant, Mae Edna Wilder, a corporation organized and doing business under and by virtue of the laws of the State of New York, with offices in the City of Rochester, State aforesaid, and said defendant is engaged in the sale and distribution of toilet articles, perfumes and the like in the said State, County and City of New York, in the Southern District of New York, in which district and elsewhere the infringing and wrongful acts complained of herein occurred and continue to occur.

1. That on or about the 15th day of June, 1920, a person representing herself to be Dorothy Dalton presented herself at the complainant's studio in the State, County and City of New York, for the purpose of having complainant pose, arrange and make artistic photographs of her.

2. That the complainant did on or about the 15 or 16th days of June 1920, arrange with great care, the said Dorothy Dalton in connection with certain back-ground, settings, lights, etc., at his
4 studio, so as to produce an artistic and pleasing appearance and effect to the eye, and of each posing and arrangement a photographic negative was made and the number of said negatives was approximately sixteen.

3. Complainant did develop, print and finish in a proper manner the said negatives and upon each copy of all of said photographs, there was with the knowledge and consent of the said Dorothy Dalton, clearly and distinctly placed the name "Lumiere" with the letter "C" within a circle, and none of the said negatives, photographs or copies thereof of the said Dorothy Dalton has been made by complainant without the said markings.

4. That the complainant, promptly after making the said photographs, deposited two copies of the best edition then published, of

one of the said photographs which is attached hereto and made a part hereof, and marked exhibit "A," with the Register of Copyrights, Washington, District of Columbia, and certificate of copyright registration has been duly issued therefor, and it is attached hereto and made a part hereof and marked exhibit "B."

5. Complainant is the sole owner, author and proprietor of said photographs and the copyright therein.

6. Defendant herein has wrongfully and with intent to infringe and discredit the artistic work and long years of experience of complainant, published copies of the said photograph of the said Dorothy Dalton, hereto attached and marked exhibit "A," with certain changes in detail and in color, and therefore has refused and failed to give due credit to the complainant as the true author and originator thereof, and the said defendant has caused and continues to cause large numbers of infringing copies to be made and distributed by printing, circulating and otherwise publishing the same in newspapers, periodicals and magazines, the exact number and method, and the names of all said publications are not within the knowledge of complainant. Among the numerous newspapers, magazines and publications which have wrongfully infringed complainant's copyright under the direction and instructions of defendant herein, are: The New York World, The Daily News and the New York Journal and many others, all of said infringing matter being printed as commercial advertising.

7. Defendant herein has caused the infringing copies aforesaid to be widely circulated and distributed in various ways throughout the United States, and thereby has deprived complainant of credit and benefit accruing to the author of a work of art and has damaged his said business and reputation as photographer and artist, the exact amount of such damage being difficult or incapable of proof.

8. Claimant is without remedy save in a Court of Equity, and therefore brings his Bill of Complaint.

Wherefore, Complainant prays that the defendant may be restrained by injunction perpetually, and each of its agents, servants and employees from publishing, printing, reprinting, copying, vending, offering for sale or otherwise distributing whatsoever copies of the photographs of said Dorothy Dalton, attached hereto and made a part hereof, marked exhibit "A," or any other imitation or colorable imitation of complainant's works as represented by said photograph, and that an order be made directing the defendant to answer the allegations herein and deliver up to a duly authorized officer of this Honorable Court, all of the said infringing copies to be impounded until further ordered, and that an accounting be rendered to complainant showing the exact number of said infringing copies so published, or caused to be published by the defendant, and that the defendant pay to complainant one dollar for every infringing copy made, sold, distributed or found in its possession or

its agents or employees, and all costs of this suit including
6 a reasonable attorneys' fee as provided by statute, and such other and further relief as the Honorable Court may in its wisdom deem just and equitable.

SAMUEL LUMIERE,
Complainant.

ALMY, VAN GORDON & EVANS,
46 Cedar Street,
Borough of Manhattan,
City of New York,
Attorneys for Complainant.

7 STATE OF NEW YORK,
County of New York, ss:

Samuel Lumiere, being duly sworn, deposes and says:

That he is the complainant herein, that he has read the foregoing bill in equity and knows the contents thereof, and that the same is true to his own knowledge except as to the matters therein stated to be alleged upon information and belief, and that as to those matters he believes it to be true.

SAMUEL LUMIERE.

Sworn to before me this 9th day of September, 1921.
PIERRE DE PEW,
N. P.

8 &9 Attached to the original complaint is the photograph of Dorothy Dalton as exhibit "A."

Attached to the original complaint is the Certificate of Copyright Registration of the photograph of Dorothy Dalton, as exhibit "B."

Filed Sep. 9 1921 U. S. District Court S. D. of N. Y.

10 [Endorsed:] United States District Court for the Southern District of New York. Samuel Lumiere, Complainant, against May Edna Wilder, (Inc.) Defendant. Bill in Equity. Almy, Van Gordon & Evans, 46 Cedar Street, Borough of Manhattan, City of New York, Attorneys for Complainant.

11 United States District Court, Southern District of New York.

In Eq.

22/149.

SAMUEL LUMIERE, Complainant,
vs.
MAE EDNA WILDER (INC.), Defendant.

Notice.

To Almy, Van Gordon & Evans, Attorneys for Complainant,
46 Cedar Street, Borough of Manhattan,
City of New York, New York.

GENTLEMEN:

Take notice that on Friday October 7, 1921 at ten o'clock A. M. or as soon thereafter as counsel can be heard, I shall present to the Judge of the United States District Court then calling the motion calendar, at the Post Office Building in the Borough of Manhattan, City of New York, on that day, the accompanying Motion to Quash service on the defendant in the above entitled cause appearing specially for the purpose.

FREDERICK F. CHURCH,
Appearing Specially for Defendant on This Motion.

711 Wilder Building, Rochester, New York.
Sept. 28, 1921.

Service of a copy of the annexed notice, motion and affidavit admitted this 29th day of September, 1921.

ALMY, VAN GORDON & EVANS,
Attorneys for Plaintiff.

12 United States District Court, Southern District of New York.

In Equity.

22/149.

SAMUEL LUMIERE, Complainant,

vs.

MAE EDNA WILDER (INC.), Defendant.

Motion to Quash Service.

Now comes the defendant herein, Mae Edna Wilder, Inc., named in the subpœna and bill of complaint and entering a special appearance by Frederick F. Church, its attorney for the purpose of this

motion and for no other purpose whatever, here shows the Court that it is a resident of and has its principal place of business in the City of Rochester, Monroe County, New York, and in the Western District of New York, and is not a resident of and has no place of business in the City of New York, nor within the Southern District of New York, and has no agent in the Southern District of New York, and as the State of New York is divided into several United States Judicial Districts and said defendant is not a resident of the District in which this suit was commenced, and it has not and does not waive its right under the provisions of Sec. 1034 U. S. Compiled Statutes 1916 (Sec. 52 of the U. S. Judicial Code) to be sued in the district of its residence, but insists upon such right; it therefore moves that the service of the subpœna ad respondendum on September 9, 1921, upon Thomas F. Adkin be quashed for the
13 reason that no sufficient service of said subpœna upon this defendant has been had.

FREDERICK F. CHURCH,
Appearing Specially for Defendant on This Motion.

711 Wilder Building, Rochester, New York.
Sept. 28, 1921.

14 United States District Court, Southern District of New York.

In Equity.

SAMUEL LUMIERE, Complainant,

vs.

MAE EDNA WILDER (INC.), Defendant.

Affidavit of Thomas F. Adkin.

COUNTY OF MONROE,
State of New York, ss:

Thomas F. Adkin being duly sworn, deposes and says as follows:

I am of lawful age, a resident of Rochester, New York, and am the President of Mae Edna Wilder, Inc., the defendant above named. The defendant corporation was formed under the Laws of the State of New York in the year 1909, and it has ever since said date been engaged in the manufacture and sale of cosmetics, toilet preparations, etc., all of its business having ben carried on in the city of Rochester, New York, where its principal place of business is and has been located, and it has no office or place of business in the city of New York, or in the Eastern District of New York, nor any employee or agent within said city or district authorized or empowered to carry on business in its name or on its behalf.

A subpœna and a copy of the Bill of Complaint in this case was delivered to me by a person representing himself as an officer of the Court at the door of my room in the Hotel Biltmore in the city of

New York while I was temporarily sojourning there about
15 & 16 four o'clock on the ninth day of September, 1921, and said person asked me if my name was Thomas F. Adkin, to which I replied that it was, and he then handed me the paper without further comment or statement.

THOMAS F. ADKIN.

Subscribed and sworn to before me this 28th day of September, 1921.

[SEAL.] RUSSELL B. GRIFFITH,
Notary Public.

Filed Sep. 29, 1921, U. S. District Court, S. D. of N. Y.

17 [Endorsed:] United States District Court, Southern District of New York. Samuel Lumiere, Complainant, vs. Mae Edna Wilder, (Inc.), Defendant. Motion to Quash Service. Frederick F. Church, 711 Wilder Building, Rochester, New York, Attorney for Defendant.

18 BBG:BK.

P. D. P.

District Court of the United States for the Southern District of New York.

In Equity.

#22–149.

SAMUEL LUMIERE, Complainant,

vs.

MAE EDNA WILDER (INC.), Defendant.

Opposing Affidavit.

SOUTHERN DISTRICT OF NEW YORK,
State of New York,
City and County of New York, ss:

Joseph M. Kelly being duly sworn deposes and says:

That he is a Deputy United States Marshal and is the person who actually served the subpœna in equity and the bill of complaint in this suit on the defendant corporation on the 9th day of September, 1921, in the City of New York, by exhibiting to Thomas F. Adkin, the president of said corporation the original subpœna and leaving with him a copy thereof and also leaving with him a copy of the bill of complaint.

That deponent went to a suite occupied by Mr. Adkin and Mr. Clark in the Hotel Biltmore and asked for Mr. Adkin and a person who answered to the rap on the door, turned and called to another in the room. When this other man stepped forward, deponent asked him, "Are you Mr. Thomas F. Adkin, president of the Mae Edna Wilder, Inc.?" To that he replied, "My name is Adkin but I am not president of the Mae Edna Wilder." Deponent thereupon said, "I serve you as such."

JOSEPH M. KELLY.

Sworn to before me this 6th day of October, 1921.

ARTHUR P. LAVERY,
Notary Public, New York Co., #392.

Filed Oct. 21, 1921. U. S. District Court, S. D. of N. Y.

19 At a Stated Term of the United States District Court for the Southern District of New York Held at the Post Office Building, City of New York, Borough of Manhattan, this 21st Day of October, 1921, Before Hon. Learned Hand, District Judge.

In Equity.

No. 22/149.

SAMUEL LUMIERE, Plaintiff,

vs.

MAE EDNA WILDER, Defendant.

On motion of Frederick F. Church appearing specially for defendant for the purpose, it is

Ordered, adjudged and decreed that the service of process in this case be and the same hereby is quashed.

LEARNED HAND,
U. S. D. J.

Filed Oct. 21, 1921. U. S. District Court, S. D. of N. Y.

20 BBG:BK.

In the District Court of the United States for the Southern District of New York.

SAMUEL LUMIERE, Complainant,

vs.

MAE EDNA WILDER (INC.), Defendant.

Notice of Settlement.

SIR:

Please take notice that a certificate, of which the within is a true copy, will be presented for settlement and entry herein to the Hon. Learned Hand, District Judge, at his chambers in the Woolworth Building, Borough of Manhattan, City of New York, on the 7th day of November, 1921, at 10 o'clock in the forenoon or as soon thereafter as counsel can be heard.

Dated: New York, November 4th, 1921.

Yours, etc.,

ALMY, VAN GORDON AND EVANS,
Solicitors for Complainant.

#46 Cedar Street, Borough of Manhattan, City of New York.

To Frederick T. Church, Esq., Solicitor for Defendant, #711 Wilder Building, Rochester, New York.

The time to make application and the term is hereby extended until such time as Judge Hand makes the certificate.

FREDERICK F. CHURCH,
By PHILIPP, SAWYER, RICE & KENNEDY,
For Defendant.

So ordered.
L. HAND,
U. S. D. J.
W. T.

21 BBG:BK.

In the District Court of the United States for the Southern District of New York.

In Equity.

22—149.

SAMUEL LUMIERE, Complainant,

vs.

MAE EDNA WILDER (INC.), Defendant.

Certificate.

The District Court for the Southern District of New York hereby certifies to the Supreme Court of the United States that on the 21st day of October, 1921, an order was duly made and entered in the above entitled action pursuant to the decision of said Court that the service of process in this case be quashed, the defendant having appeared specially and solely for the purpose of the motion to quash and the decision was made solely on the ground that the District Court had acquired no jurisdiction of the defendant corporation. The question of jurisdiction as shown by the record herein was one of service under Section 35 of the Copyright Act in a case where a bill brought in the Southern District of New York for an injunction and other relief for an infringement of complainant's copyrighted photograph, alleged that the defendant corporation was engaged in the sale and distribution of toilet articles, perfumes and the like in the Southern District of New York and had caused and continues to cause large numbers of infringing copies of complainant's photograph to be made and distributed by publishing them as commercial advertising in certain newspapers among them The New York World, The Daily News, The New York Journal, and where defendant was a corporation organized under the laws of the State of New York, having its principal place of business and being engaged in the manufacture and sale of cosmetics and toilet preparations in the City of Rochester which is in the Western District of New York, and having no employee or agent permanently located in the Southern
22 & 23 District of New York, authorized or empowered to carry on business in its name or in its behalf, and where a subpœna in equity and copy of the bill of complaint were served on the 9th day of September, 1921, by the United States Marshal for the Southern District of New York, upon Thomas F. Adkin, who was then and there the president of the defendant corporation, at the Hotel Biltmore in the City of New York, in the Southern District of New York, while he was temporarily sojourning there.

Dated: New York, November 4th, 1921.

LEARNED HAND,

W. T. *United States District Judge.*

Filed Nov. 14, 1921. U. S. District Court, S. D. of N. Y.

24 [Endorsed:] United States District Court, Southern District of New York. County Clerk. Index No. —, 192–. Samuel Lumiere, Complainant, vs. Mae Edna Wilder (Inc), Defendant. Office Copy. Certificate. Almy, Van Gordon & Evans, 46 Cedar Street, Borough of Manhattan, City of New York, Attorneys for Complainant. Filed November 14, 1921. (Copy.) Copy of within certificate and notice admitted this 4th November 1921. Frederic F. Church, by Phillip Sawyer, Rice & Kennedy, for Defendant.

25 P. D. P.

BBG:DTT.

United States District Court for the Southern District of New York.

In Equity.

22-149.

SAMUEL LUMIERE, Complainant,

against

MAE EDNA WILDER (INC.), Defendant.

Petition for Appeal.

Samuel Lumiere, the complainant in the above entitled cause, conceiving himself aggrieved by the order made and entered herein on the 21st day of October, 1921, by this Honorable Court, whereby it was ordered that the service of the process in this case be quashed, does hereby appeal under the provisions of Section 238 of the Judicial Code, from said order and from each and every part thereof to the Supreme Court of the United States, for the reasons set forth in the assignment of errors filed herewith, and he prays that his appeal may be allowed and that a citation be issued directed to Mae Edna Wilder, Inc., the defendant in the above entitled cause, commanding it to appear before the Supreme Court of the United States, to do and receive what may appertain to justice to be done in the premises and that a transcript of the record proceedings and papers upon which said order was made and entered, may be duly authenticated by the Clerk of this Court and may be transmitted to the Supreme Court of the United States.

Dated: New York, November 25, 1921.

ALMY, VAN GORDON AND EVANS,
Solicitors for Complainant.

Office & Post Office Address, No. 46 Cedar Street, Borough of Manhattan, City of New York.

26 And now, to wit, on this 10th day of December, 1921, it is Ordered that the appeal be allowed as prayed for, on the ground that the question of jurisdiction of this Court alone is in issue.

Dated: New York, December 10, 1921.

AUGUSTUS N. HAND,
United States District Judge,
Southern Dist. of N. Y.

Filed Dec. 12, 1921. U. S. District Court, S. D. of N. Y.

27 P. D. P.

BBG:BK.

United States District Court for the Southern District of New York.

In Equity.

22-149.

SAMUEL LUMIERE, Complainant,

against

MAE EDNA WILDER (INC.), Defendant.

Complainant's Assignment of Errors.

The complainant in the above entitled case conceiving himself aggrieved by the order made and entered herein on the 21st day of October, 1921, by the Hon. Learned Hand, District Judge, whereby it was ordered that the service of the process in this case be quashed, now appeals therefrom and from each and every part thereof to the Supreme Court of the United States by his solicitors and files with his accompanying petition for an appeal the following Assignment of Errors upon which he will rely upon the appeal, to wit:

I. The District Court erred in holding that the service of process in this case be quashed.

II. The District Court erred in holding that the District Court of the United States for the Southern District of New York did not acquire jurisdiction of the defendant by the service by the United States Marshal for the Southern District of New York, on the 9th day of September, 1921, at the City of New York, in said district, upon the defendant, Mae Edna Wilder, Inc., of the subpœna in equity by exhibiting to Thomas J. Adkin, as president of defendant corporation, at the Biltmore Hotel in said City and District, the original and at the same time leaving with him a copy thereof, and also at the same time and place leaving with him a copy of the bill

of complaint herein, did not institute this suit which is a civil
28 suit brought under the Copyright Law of the United States, and which law provides in Section 35 thereof, among other things, that civil suits arising under this Act may be instituted in the distr-ct in which the defendant or his agent may be found.

III. The District Court erred in failing to hold that under Section 35 of the Copyright Law, this suit under the Copyright Law, was properly instituted by service of the subpœna and copy of the bill upon the defendant whose agent, to wit, its President, was found in the Southern District of New York.

Wherefore Complainant prays that said order may be reversed and that the District Court for the Southern District of New York, be directed to enter an order denying the motion of defendant to quash the service of the subpœna and the copy of the bill of complaint.

Dated: New York, November 25th, 1921.

ALMY, VAN GORDON AND EVANS,
Solicitors for Complainant.

No. 46 Cedar Street, City of New York.

Filed Dec. 12, 1921. U. S. District Court, S. D. of N. Y.

29 P. D. P.

BBG.:BK.

By the Honorable Augustus N. Hand, One of the United States District Judges for the Second Circuit, to Mae Edna Wilder (Inc.), Greetings:

You are hereby cited and admonished to be and appear before a Supreme Court of the United States to be holden at Washington, on the 9th day of January, 1922, pursuant to an appeal filed in the Clerk's Office of the District Court of the United States for the Southern District of New York, wherein Samuel Lumiere is appellant, and Mae Edna Wilder, Inc., the appellee, to show cause, if any there be, why the errors in the said appeal mentioned should not be corrected and speedy justice should not be done to the parties in that behalf.

Witness the Honorable William H. Taft, Chief Justice of the Supreme Court of the United States, this 10th day of December, in the year of our Lord nineteen hundred and twenty-one.

AUGUSTUS N. HAND,
U. S. District Judge, S. D. N. Y.

W. T.

Filed Dec. 14, 1921. U. S. District Court, S. D. of N. Y.

30 BBG.:BK.

United States District Court for the Southern District of New York.

In Equity.

22-149.

SAMUEL LUMIERE, Complainant,

against

MAE EDNA WILDER (INC.), Defendant.

It is hereby stipulated and agreed that the provisions of the United States Supreme Court Equity Rules No-. 75, 76 and 77 be and they are hereby waived.

It is further stipulated and agreed that the record on appeal herein shall consist of the following papers:

1. Subpœna in equity.

2. United States Marshal's certificate of service of subpœna and copy of bill.

3. Bill in equity.

4. Special appearance by Frederick F. Church, Esq., for defendant and notice of motion to quash.

5. Defendant's motion to quash service.

6. Affidavit of Thomas F. Adkin in support of the motion to quash.

7. Affidavit of Joseph M. Kelly in opposition.

8. Order of Hon. Learned Hand, District Judge, quashing service which is the order appealed from.

9. Certificate by the Hon. Learned Hand, District Judge.

10. Petition on appeal and allowance.

11. Assignment of errors.

12. Citation.

13. This stipulation.

14. Stipulation approving contents of record.

31 15. Clerk's certificate.

And it is further stipulated and agreed that no written opinion was handed down by the Hon. Learned Hand upon the decision of the motion to quash.

It is further stipulated that when the record on appeal is so prepared, the same will constitute the record on appeal for all the parties herein and upon the presentation of the record so prepared, the Clerk shall certify the same without further order of the Court.

Dated: New York, December 12th, 1921.

ALMY, VAN GORDON & EVANS,
Solicitors for Complainant.
FREDERICH F. CHURCH,
Solicitor for Defendant, Appearing Specially.

It is so ordered.
L. HAND,
U. S. District Judge.
W. T.

December 22nd, 1921.

Filed Dec. 22, 1921. U. S. District Court, S. D. of N. Y.

32 BBG.:BK.

United States District Court for the Southern District of New York.

In Equity.

22-149.

SAMUEL LUMIERE, Complainant,

against

MAE EDNA WILDER (INC.), Defendant.

It is hereby stipulated and agreed that the foregoing is a true transcript of the record of the said District Court in the above entitled matter, as agreed on by the parties.

Dated: New York, December 12th, 1921.

ALMY, VAN GORDON & EVANS,
Solicitors for Complainant.
FREDERICH F. CHURCH,
Solicitor for Defendant, Appearing Specially.

33 UNITED STATES OF AMERICA,
Southern District of New York, ss:

Eq. 22-149.

SAMUEL LUMIERE, Complainant,

vs.

MAE EDNA WILDER, INC., Defendant.

I, Alexander Gilchrist, Jr., Clerk of the District Court of the United States of America for the Southern District of New York, do hereby Certify that the foregoing is a correct transcript of the record of the said District Court in the above-entitled matter as agreed on by the parties.

In testimony whereof, I have caused the seal of the said Court to be hereunto affixed, at the City of New York, in the Southern District of New York, this 22nd day of December in the year of our Lord one thousand nine hundred and twenty-one and of the Independence of the said United States the one hundred and forty-sixth.

[Seal of District Court of the United States, Southern District of N. Y.]

ALEX. GILCHRIST, JR.,
Clerk.

Endorsed on cover: Filed No. 28,624. S. New York D. C. U. S. Term No. 242. Samuel Lumiere, appellant, vs. Mae Edna Wilder, Inc. Filed January 4th, 1921. File No. 28,634.